

AMENDED IN SENATE FEBRUARY 15, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 886**

**Introduced by Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Bass, Frommer, Koretz, Maze, Nation, Tran, Vargas, and Yee)**

February 18, 2005

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~~An act to amend Sections 313 and 313.5 of the Business and Professions Code, relating to construction. An act to amend Section 7105 of the Health and Safety Code, relating to human remains.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 886, as amended, Committee on Business and Professions. ~~Department of Consumer Affairs.~~ *Human remains: disposition.*

*Existing law provides that specified persons who otherwise have the right to control the disposition of a decedent's remains and arrange for funeral goods and services fail to act or cannot be found within 7 days of the death, or in the case of a competent surviving spouse who fails to act or cannot be found within 10 days of the death, the right to control the disposition shall pass to the next person or persons in accordance with the order of succession provided by statute.*

*This bill would instead provide that if the person or persons who have the right to control the disposition of a decedent's remains and arrange for funeral goods and services fail to act or cannot be found within 7 days from the date when this right devolves to the person or persons, or in the case of a competent surviving spouse within 10 days of when the right devolves to him or her, the right shall pass to the*

*next person in accordance with the order of succession provided by statute.*

~~Existing law requires the Director of the Department of Consumer Affairs to establish a library of materials relating to consumers and consumer problems, and to periodically publish a bibliography of consumer information available in the library.~~

~~This bill would require the director to make those materials available electronically or on the Internet.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 7105 of the Health and Safety Code is*  
2     *amended to read:*

3     7105. (a) If the person or persons listed in paragraphs (1),  
4     (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would  
5     otherwise have the right to control the disposition and arrange for  
6     funeral goods and services fails to act, or fails to delegate his or  
7     her authority to act to some other person within seven days of the  
8     ~~death date when the right and duty devolves upon the person or~~  
9     *persons*, or in the case of a person listed in paragraph (2) of  
10    subdivision (a) of Section 7100, within 10 days of the ~~death date~~  
11    *when the right and duty devolves upon the person*, the right to  
12    control the disposition and arrange for funeral goods and services  
13    shall be relinquished and passed on to the person or persons of  
14    the next degree of kinship in accordance with subdivision (a) of  
15    Section 7100.

16    (b) If the person or persons listed in paragraphs (1), (3), (4),  
17    (5), and (6) of subdivision (a) of Section 7100 that would  
18    otherwise have the right to control the disposition and arrange for  
19    funeral goods and services cannot be found within seven days of  
20    the ~~death date when the right and duty devolves upon the person~~  
21    *or persons*, or in the case of a person listed in paragraph (2) of  
22    subdivision (a) of Section 7100, within 10 days of the ~~death date~~  
23    *when the right and duty devolves upon the person*, after  
24    reasonable inquiry, the right to control the disposition and  
25    arrange for funeral goods and services shall be relinquished and  
26    passed on to the person or persons of the next degree of kinship  
27    in accordance with subdivision (a) of Section 7100.

(c) If any persons listed in paragraphs (1) ~~to~~, (3), (4), (5), and (6), ~~inclusive~~, of subdivision (a) of Section 7100 that would otherwise have equal rights to control the disposition and arrange for funeral goods and services fail to agree on disposition and funeral goods and services to be provided within seven days of the date on which the right and duty of disposition devolved upon the persons, a funeral establishment or a cemetery authority having possession of the remains, or any person who has equal right to control the disposition of the remains may file a petition in the superior court in the county in which the decedent resided at the time of his or her death, or in which the remains are located, naming as a party to the action those persons who would otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties will have the control of disposition and to direct that person to make interment of the remains. The court, at the time of determining the person to whom the right of disposition will vest, shall, from the remaining parties to the action, establish an alternate order to whom the right to control disposition will pass if the person vested with the right to control disposition fails to act within seven days.

(d) If the person vested with the duty of interment has criminal charges pending against him or her for the unlawful killing of the decedent, in violation of Section 187 of, or subdivision (a) or (b) of Section 192 of, the Penal Code, the person or persons with the next highest priority prescribed by Section 7100 may petition a court of competent jurisdiction for an order for control of the disposition of the decedent's remains. For this purpose, it shall be conclusively presumed that the petitioner is the person entitled to control the disposition of the remains if the petitioner is next in the order of priority specified in Section 7100.

~~SECTION 1. Section 313 of the Business and Professions Code is amended to read:~~

~~313. The director shall provide for the establishment of a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems. The director shall make the library available electronically or on the Internet in a manner that does not violate the copyright or other reserved rights of the materials in the library.~~

1     ~~SEC. 2 Section 313.5 of the Business and Professions Code is~~  
2     ~~amended to read:~~  
3     ~~313.5. The director shall periodically publish a bibliography~~  
4     ~~of consumer information available in the department library and~~  
5     ~~elsewhere. The director shall make the bibliography available~~  
6     ~~electronically or on the Internet. The bibliography shall be sent to~~  
7     ~~subscribers upon payment of a reasonable fee.~~

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